

REMARKS

In response to the Office Action of September 18, 2003, Applicants have canceled claims 1-3, amended claims 20-25, and added new claims 26-29. The amendments and new claims are supported by the specification and figures as filed. No new matter has been added. Applicants respectfully submit that the pending claims are now in allowable form. Reconsideration and allowance is respectfully requested.

Rejections under 35 U.S.C. § 102

The Office Action rejected claims 1, 2, 20-23, and 25 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 3,783,868 to Bokros ("Bokros"). A claim is anticipated only if each and every element as set forth in the claim is found in a single prior art reference. *MPEP* § 2131. Applicants have canceled claims 1-3, amended claims 20-25, and added new claims 26-29.

Bokros discloses a cylindrical stem with an upper flange 24 at one end and a subcutaneous stabilizing flange 26 at its other end. *See Bokros, col. 2, lines 37-40.* Bokros also discloses a metallic screen 54 located between the upper flange 24 and the subcutaneous stabilizing flange 26. *See col. 3, line 8 and Fig. 2.* As shown in Figure 2, the metallic screen 54, upper flange 24, and subcutaneous stabilizing flange 26 are substantially parallel to each other. As can be seen from Bokros's figures, none of these structures form: (1) "a channel-shaped pocket encircling the shaft, formed between the upper and lower fins, and including a gap defined by the peripheral edges of the upper and lower fins, wherein the distance between the peripheral edges of the upper and lower fins is smaller than a cross-sectional diameter of the channel-shaped pocket," as recited in independent claim 20; (2) "a radial pocket with a gap, each fin having a respective peripheral fin edge, said respective peripheral fin edges spaced from each other thereby defining said gap, wherein the distance between the peripheral fin edges is smaller than a cross-sectional diameter of the radial pocket," as recited in independent claim 23; or (3) "a channel-like pocket between the radial and anchoring fins, each fin having a peripheral fin edge that defines one side of a gap in the channel-like pocket, the channel-like pocket having a rounded cross-sectional area," as recited in independent claim 25.

These recited features are advantageous because they allow tissue cells to grow into the channel-shaped radial pocket 10 to form a flush connection between the tissue and the surface of the radial pocket. *Applicants' Specification As Filed*, p. 6, ll. 14-16; p. 7, ll. 1-3. This helps to maintain the seal between the port body 1 and the surrounding tissue, which blocks the passage of pathogens into the patient.

Support for these recited features can be found generally throughout the specification and figures as filed. More specifically, support for these recited features can be found in FIG. 1 and at page 6, lines 10-18 of the specification as filed.

Because Bokros fails to disclose these recited aspects of independent claims 20, 23 and 25 and their respective dependent claims, Bokros does not anticipate the claimed invention. Therefore, Applicants respectfully request that the anticipation rejection based on Bokros be reconsidered and withdrawn.

Rejections under 35 U.S.C. § 103

The Office Action rejected Claim 3 under 35 U.S.C. § 103(a) as being unpatentable over Bokros as applied to claim 1, and further in view of U.S. Patent 5,098,397 to Svensson et al. ("Svensson"). The Office Action also rejected claim 24 under 35 U.S.C. § 103(a) as being unpatentable over Bokros as applied to claim 1 and further in view of U.S. Patent 5,741,234 to Aboul-Hosn ("Aboul-Hosn"). Applicants have canceled claims 1-3, amended claims 20-25, and added new claims 26-29.

In order for a combination of references to establish a case of prima facie obviousness, three requirements must be met: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art references when combined must teach or suggest all the claim limitations. *MPEP* §2142.

As explained in the previous section, Bokros fails to disclose, teach or suggest: (1) “a channel-shaped pocket encircling the shaft, formed between the upper and lower fins, and including a gap defined by the peripheral edges of the upper and lower fins, wherein the distance between the peripheral edges of the upper and lower fins is smaller than a cross-sectional diameter of the channel-shaped pocket,” as recited in independent claim 20; (2) “a radial pocket with a gap, each fin having a respective peripheral fin edge, said respective peripheral fin edges spaced from each other thereby defining said gap, wherein the distance between the peripheral fin edges is smaller than a cross-sectional diameter of the radial pocket,” as recited in independent claim 23; or (3) “a channel-like pocket between the radial and anchoring fins, each fin having a peripheral fin edge that defines one side of a gap in the channel-like pocket, the channel-like pocket having a rounded cross-sectional area,” as recited in independent claim 25. Neither Svensson nor Aboul-Hosn remedy Bokros’s deficiency.

Because the Bokros/Svensson and Bokros/Aboul-Hosn combinations fail to disclose or teach at least these recited aspects of independent claims 20, 23 and 25 and their respective dependent claims, the combinations do not make obvious the claimed invention. Therefore, Applicants respectfully request that the obviousness rejections be reconsidered and withdrawn.

Applicant encloses herewith a Petition to extend the time to respond from December 18, 2003 until February 18, 2004, along with a check in the amount of \$420.00. The Office is also hereby authorized to charge any deficiency associated with this communication or the Petition to Deposit Acct. 04-1420.

This application now stands in allowable form and reconsideration and

allowance is respectfully requested.

Respectfully submitted,

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